

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

TRACY L. LAWRENCE,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:13-cv-01250-SEB-DML
)	
RON RICHARDSON,)	
SHELLY SPARKS,)	
TYLER JUGG,)	
R. PERKINS,)	
)	
Defendants.)	

ORDER DENYING DEFENDANT SPARKS' MOTION TO DISMISS

This cause is before the Court on Defendant Shelly Sparks' Motion to Dismiss [Docket No. 30], filed on December 6, 2013 pursuant to Federal Rule of Civil Procedure 12(b).¹

Defendant Sparks seeks dismissal on the same grounds as did Defendants Richardson, Jugg, and Perkins, whose motion to dismiss [Docket No. 19] asserted that Plaintiff had failed to exhaust his administrative remedies before filing suit, in violation of the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a). On July 7, 2014, the Court denied Sparks's co-Defendants' motion, concluding that, pursuant to the Seventh Circuit's ruling in *Pavey v. Conley*, 528 F.3d 494, 497–498 (7th Cir. 2008), it was necessary to conduct a hearing on the factual questions raised by the failure to exhaust defense.

Because this motion to dismiss relies solely on Plaintiff's purported failure to exhaust administrative remedies, *see* Docket No. 31 at 2–3, it too is DENIED. If Defendant Sparks

¹ Defendant Sparks was incorrectly identified as Defendant "Shelly" in Plaintiff's documents.

requires additional time to conduct discovery in preparation for the Court's *Pavey* hearing, she may advise the Court of any such need.

IT IS SO ORDERED.

Date: 9/5/2014



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

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